

**COUNTY OF ORANGE
PLANNING AND DEVELOPMENT SERVICES
SANTA ANA, CALIFORNIA**

**GRADING AND EXCAVATION
CODE
1998 EDITION**

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DIRECTOR**

**ORANGE COUNTY
BOARD OF SUPERVISORS**

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FIRST DISTRICT**

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**ORANGE COUNTY GRADING AND EXCAVATION CODE
TABLE OF CONTENTS**

<i>Page</i>	<i>Section Number</i>	<i>Section Title</i>
	SUBARTICLE 1	GENERAL PROVISIONS
1	7-1-800	Title Reference to Code
1	7-1-801	Grading Manual
1	7-1-802	Purpose and Intent
1	7-1-803	Scope
	SUBARTICLE 1	DEFINITIONS
1	7-1-804	Definitions
	SUBARTICLE 3	PERMITS REQUIRED
4	7-1-805	Grading Permits
5	7-1-806	Grading Permit, Paving
5	7-1-807	Grading Permit, Watercourse Alteration
5	7-1-808	Excavation Blasting Permit
5	7-1-809	Types of Grading Permits
	SUBARTICLE 4	ORGANIZATION AND ENFORCEMENT
5	7-1-810	Powers and Duties of the Building Official
6	7-1-811	Violations and Penalties
7	7-1-812	Hazardous Conditions
9	7-1-813	Grading Board of Appeals
9	7-1-814	Technical Advisory Board
	SUBARTICLE 5	GRADING PERMIT REQUIREMENTS
10	7-1-815	Permits Required
10	7-1-816	Application
10	7-1-817	Plans and Specifications
10	7-1-818	Information on Plans and Specifications
10	7-1-819	Soil Engineering and Engineering Geology Reports
11	7-1-820	Issuance, Expiration and Renewal
12	7-1-821	Denial of Permit
12	7-1-822	Time of Grading Operations
12	7-1-823	Responsibility of Permittee
12	7-1-824	Protection of Adjoining Property
13	7-1-825	Import and Export of Earth Material

<i>Page</i>	<i>Section Number</i>	<i>Section Title</i>
	SUBARTICLE 6	FEES
13	7-1-826	Grading Plan Check Fees
13	7-1-827	Grading Permit Fees
14	7-1-828	Cost Recovery Fees
	SUBARTICLE 7	SECURITY
14	7-1-829	Security
	SUBARTICLE 8	CUTS
15	7-1-830	Cuts
	SUBARTICLE 9	FILLS
15	7-1-831	Fills
	SUBARTICLE 10	SETBACKS
15	7-1-832	Setbacks
	SUBARTICLE 11	DRAINAGE AND TERRACING
15	7-1-833	Drainage and Terracing
	SUBARTICLE 12	ASPHALT CONCRETE PAVEMENT
15	7-1-834	Asphalt Concrete Pavement
	SUBARTICLE 13	EROSION CONTROL
16	7-1-835	Erosion Control System
17	7-1-836	Erosion Control Plans
17	7-1-837	Erosion Control Maintenance
	SUBARTICLE 14	GRADING INSPECTION
18	7-1-838	General
18	7-1-839	Grading Requirements
18	7-1-840	Notification of Noncompliance
19	7-1-841	Transfer of Responsibility for Approval
19	7-1-842	Site Inspection by the Building Official
19	7-1-843	Special Inspections
	SUBARTICLE 15	COMPLETION OF WORK
20	7-1-844	Final Reports
20	7-1-845	Notification of Completeness

Sec. 7-1-800. Title Reference to Code.

This Article shall be known as and may be cited as the 'Orange County Grading and Excavation Code.' "Code" as referred to in this Article, unless the context clearly indicates otherwise, shall mean the Orange County Grading and Excavation Code.

Sec. 7-1-801. Grading Manual.

- (a) The Director shall formulate and modify as necessary such rules, procedures, and interpretations as may be necessary or convenient to administer this Article. Such rules, procedures and interpretations shall be referred to as the "Orange County Grading Manual" or the "Grading Manual" or the "Grading Manual."
- (b) In the event of any conflict between said Grading Manual and this Code, the provisions of this Code shall govern. The provisions of the said Grading Manual shall, to the extent that they are made conditions of any permit by the Building Official, be binding on the permittee.

Sec. 7-1-802. Purpose and Intent.

It is the intent of this Code to safeguard life, limb, property, and the public welfare by regulating grading on private property in the unincorporated areas of the County of Orange.

Sec. 7-1-803. Scope.

This Code sets forth rules and regulations to control excavation, grading, and earthwork construction, including fills and embankments, and establishes administrative requirements for issuance of permits and approval of plans and inspection of grading construction in accordance with the requirements for grading and excavation as contained in the Uniform Building Code then in effect as adopted and modified by County ordinance.

SECTION 2. DEFINITIONS

Sec. 7-1-804. Definitions.

- (a) **Approval** shall mean a written engineering or geological opinion by the responsible engineer, geologist of record or responsible principal of the engineering company concerning the progress and completion of the work unless it specifically refers to the Building Official.

Approved plans shall mean the current grading plans which bear the stamp of approval of the Building Official.

Approved testing agency shall mean a facility whose testing operations are controlled and monitored by a registered civil engineer and which is equipped to perform and certify the tests required by this Code, or the Grading Manual, as determined by the Building Official. This determination may be appealed to the Board of Supervisors.

- (b) **Borrow** is earth material acquired from an off-site location for use in grading on a site.

Building Official is the Director of the Planning and Development Services Department or his duly delegated representative.

- (c) **Civil Engineer** shall mean a professional engineer registered in the State of California to practice in the field of civil engineering.

Civil Engineering shall mean the application of the knowledge of the forces of nature, principles of mechanics and the properties of materials for the evaluation, design and construction of civil works for the beneficial uses of mankind.

Clearing, brushing and grubbing shall mean the removal of vegetation (grass, brush, trees, and similar plant types) by mechanical means.

Compaction is the densification of a fill by mechanical means.

Commercial coach is a vehicle with or without motive power, designed and equipped for human occupancy for industrial, professional or commercial purposes, and shall include a trailer coach.

(d) **Director** shall mean Director of the Orange County Planning and Development Services Department or his duly delegated representative.

(e) **Earth material** is any rock, natural soil or fill and/or any combination thereof.

Engineering Geologist shall mean a geologist certified in the State of California to practice engineering geology.

Engineering Geology shall mean the application of geologic knowledge and principles in the investigation and evaluation of naturally occurring rock and soil for use in the design of civil works.

Erosion is the wearing away of the ground surface as a result of the movement of wind, water, and/or ice.

Erosion control system is a combination of desilting facilities, and erosion protection, including effective planting, to protect adjacent private property, watercourses, public facilities and receiving waters from any abnormal deposition of sediment or dust.

Excavation is the mechanical removal of earth material.

(f) **Fill** is a deposit of earth material placed by artificial means.

(g) **Grade** shall mean the vertical location of the ground surface.

Natural grade is the ground surface unaltered by artificial means.

Existing grade is the ground surface prior to grading.

Rough grade is the stage at which the grade approximately conforms to the approved plan.

Finished grade is the final grade of the site, which conforms to the approved plan.

Grading is any excavating or filling or combination thereof.

Grading contractor is a contractor licensed and regulated by the State of California who specializes in grading work or is otherwise licensed to do grading work.

Grading permit is an official document or certificate issued by the Building Official authorizing grading activity as specified by approved plans and specifications.

(h) **Hillside site** is a site which entails cut and/or fill grading of one (1) foot or more in vertical height below or above natural ground; or a combination fill-over-cut slope equal to or greater than five (5) feet in vertical

height; or where the existing grade is twenty (20) percent or greater; and which may be adversely affected by drainage and/or stability conditions within or from outside the site, or which may cause an adverse affect on adjacent property.

- (m) **Mobile home** means a structure, transportable in one or more sections, designed and equipped to contain not more than two dwelling units to be used with or without a foundation system. Mobile home does not include recreational vehicle, commercial coach, or factory-built housing.
- (o) **Owner** is any person, agency, firm, or corporation having a legal or equitable interest in a given real property.
- (p) **Permanent erosion control devices** are improvements which remain throughout the life of the development. They include terrace drains, down-drains, slope landscaping, channels, storm drains, etc.

Precise grading permit is a permit that is issued on the basis of approved plans, which show the precise structure location, finish elevations, and all on-site improvements.

Preliminary grading permit is a permit that is issued on the basis of approved plans which need not show a structure location, but must show interim building pad drainage to the degree required by the Building Official.

- (r) **References** - Unless indicated otherwise, or as reasonably appears from the context, references in this Code to the civil engineer, the soil engineer, the geologist, and the engineering geologist refer to the professional person(s) preparing, signing, or approving the project plans and specifications which comprise the approved grading plan, and which professional person appears of record pursuant to Sections 7-1-815 through 7-1-820 or his successor appearing pursuant to Section 7-1-841, Transfer of Responsibility for Approval.
- (s) **Semi-permanent erosion control devices** are devices, which are used primarily during construction and are not relocatable. They include earthen berms, concrete spillways, desilting basins, riser/outlet pipes, etc.

Site is any lot or parcel of land or contiguous combination thereof, line up under the same ownership, where grading is performed or permitted.

Slope is an inclined ground surface, the inclination of which is expressed as a ratio of vertical distance to horizontal distance.

Soil is naturally occurring surficial deposits overlying bedrock.

Soil Engineer is a civil engineer duly registered in the State of California whose field of expertise is soil mechanics.

Soil Engineering shall mean the application of the principles of soil mechanics in the investigation, evaluation, and design of civil works involving the use of earth materials and the inspection and testing of the construction thereof.

Special inspector is an inspector duly licensed by the Building Official to perform inspection of asphalt concrete placement and related construction work or other grading related work approved by the Building Official.

- (t) **Temporary erosion control devices** are devices, which are removable and can rarely be salvaged for subsequent reuse. In most cases they will last no longer than one rainy season. They include sandbags, gravel bags, plastic sheeting (visqueen), silt fencing, straw bales, and similar items.

Terrace is a relatively level step constructed in the face of a graded slope surface for drainage and maintenance purposes.

SECTION 3: PERMITS REQUIRED

Sec. 7-1-805. Grading Permits.

No person shall conduct any grading, clearing, brushing, or grubbing on natural or existing grade that is preparatory to grading, without first having obtained a grading permit from the Building Official. Exceptions to this requirement are as follows or as otherwise determined by the Building Official:

- (a) An excavation below finished grade for basements and footings of building, mobile-home, retaining wall, or other structure authorized by a valid building permit or construction permit. This shall not exempt any fill made with the material from such excavation nor exempt any excavation having an unsupported height greater than five (5) feet after the completion of such structure. This shall not prohibit a grading permit or soil or geologic report from being required for foundation design and inspection purposes when, in the opinion of the Building Official, stability or flooding considerations warrant such inspection.
- (b) Cemetery graves.
- (c) Refuse disposal sites controlled by other regulations.
- (d) Earthwork construction regulated by the Federal, State, County, or City governments, or by any local agency as defined by Government Code Sections 53090 through 53095 (special districts). Pipeline or conduit excavation and backfill conducted by local agencies or public utilities. Earthwork construction performed by railway companies on their operating property. This exemption, however, shall apply only when the earthwork construction takes place on the property, or dedicated rights of way or easements of the above agencies.
- (e) Excavation and backfill for installation of underground utilities by public utilities or companies operating under the authority of a franchise or public property encroachment permit.
- (f) Mining, quarrying, excavating, processing, stockpiling of rock, sand, gravel, aggregate or clay where established and provided for by law, provided such operations do not affect the lateral support or increase the stresses in or pressures upon any adjacent or contiguous property.
- (g) Exploratory excavations under the direction of soil engineers or engineering geologists provided all excavations are properly backfilled. All such excavations and trenches are subject to the applicable sections of Title 8 of the State Orders, Division of Industrial Safety.
- (h) An excavation which does not exceed fifty (50) cubic yards on any one site and which (1) is less than two (2) feet in vertical depth, or (2) which does not create a cut slope greater than five (5) feet in vertical height and steeper than one vertical to one and one-half horizontal (1V:1.5H).
- (i) A fill less than one (1) foot in depth placed on natural grade with a slope flatter than one vertical to five horizontal (1V:5H), which does not exceed fifty (50) cubic yards on any one lot and does not obstruct a drainage course.
- (j) A fill less than three (3) feet in depth, not intended to support structures or mobile homes, which does not exceed fifty (50) cubic yards on any one lot and does not obstruct a drainage course.
- (k) Grading in conjunction with work performed pursuant to the provisions of Title 7, Division 8, Article 1 of the Codified Ordinance of the County of Orange (The Orange County Oil Code), unless the Building Official determines it is necessary to obtain a grading permit to assure proper construction of a building or other structure, or where it is necessary for the protection of adjacent properties not devoted to oil drilling or production.

Sec. 7-1-806. Grading Permit, Paving.

No person shall construct pavement surfacing in excess 3000 square feet, on natural or existing grade for the purpose of a private road or commercial, industrial or multi-residential parking lot or travelway without a valid grading permit unless waived by the Building Official or a separate improvement plan for such paving is approved and signed by an authorized County official. Resurfacing or maintenance of paved surfaces shall be exempt from this requirement.

Sec. 7-1-807. Grading Permit, Watercourse Alteration.

No person shall alter an existing watercourse, channel, or revetment by excavating, or placing fill, rock protection or structural improvements without a valid grading permit unless waived by the Building Official or performed as interim protection under emergency flood fighting conditions.

Sec. 7-1-808. Excavation Blasting Permit.

No person shall possess, store, sell, transport or use explosives and blasting agents to do any excavation without a permit from the Orange County Fire Authority.

Sec. 7-1-809. Types of Grading Permits.

- (a) Either a preliminary grading permit or a precise grading permit may be issued for grading work upon completion of an application in accordance with Subarticle 5 of the Grading Manual and approval by the Building Official. The preliminary or precise grading permit is the option of the permittee provided that the plans satisfy the requirements of Subarticle 5 of the Grading Manual.
- (b) Building permits may be issued for a site graded under a valid precise grading permit upon completion and approval of rough grade inspection as specified in Section 7-1-842(e), Site Inspection by the Building Official, of this Code.
- (c) Building permits shall not be issued for a site graded under a preliminary grading permit until a new precise grading permit has been issued and the provisions of (b) above have been satisfied.

SUBARTICLE 4. ORGANIZATION AND ENFORCEMENT

Sec. 7-1-810. Powers and Duties of the Building Official.

- (a) The provisions of Section 104.2, Powers and Duties of Building Official, of the Uniform Building Code shall apply to grading construction work.
- (b) Stop orders. Whenever any building or grading work is being done contrary to the provisions of this Code or the Grading Permit, the Building Official may order the work stopped by notice in writing served on any persons engaged in the doing or causing such work to be done, and any such persons shall forthwith stop such work until authorized by the Building Official to proceed with the work.

Sec. 7-1-811. Violations and Penalties.

- (a) It shall be unlawful for any person, firm or corporation to do grading in the County of Orange, or cause the same to be done, contrary to or in violation of any of the provisions of this Code.
- (b) The issuance of a building permit, performance of building permit inspections, or issuance off a certificate of use and occupancy may be withheld for property on which a violation of the provisions of this Code exists, including work performed not in accordance with approved grading plans, until such violation has been corrected or mitigated to the satisfaction of the Building Official or designee (hereafter "Building Official"). The Building Official shall consult, as appropriate, with the Director of Planning.
- (c) No tentative tract map or parcel map shall be approved for property on which a violation of the provisions of this Code exists, including work performed not in accordance with approved grading plans, unless conditioned to require such violation to be corrected or mitigated to the satisfaction of the Building Official prior to recordation.
- (d) No zone change or discretionary permit per Zoning Code Section 7-9-150 shall be approved for property on which a violation of the provisions of this Code exists, including work performed not in accordance with approved grading plans, unless conditioned to require such violation to be corrected or mitigated to the satisfaction of the Building Official prior to the issuance of any building permits.
- (e) The Building Official, in consultation with the Director, shall determine if the corrective or mitigating action itself requires the approval of a site development permit per Zoning Code Section 7-9-139 and/or an Initial Study per CEQA.
- (f) Any person, firm, or corporation violating any of the provisions of this Code shall be deemed guilty of a misdemeanor, and each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this Code is committed, continued, or permitted, and upon conviction of any such violation such person shall be punishable by a fine of not more than five hundred dollars (\$500) or by imprisonment for not more than six (6) months, or by both such fine and imprisonment.

In addition to any such fine or imprisonment, the court may also require such party to correct or mitigate the grading violation to the satisfaction of the Building Official.

- (g) In addition to the provisions of the subsections above, a notice of violation of this Code may be recorded in accordance with the following procedures:

1. Notice of Intent

A written notice of intent to record a notice of violation shall be served on the current owner of record of the property. Such notice shall describe the property, the violation and the action necessary to correct or mitigate the violation. The notice shall inform the owner that a notice of violation will be recorded if the owner does not, within 20 days or receipt thereof, either correct the violation or request a meeting with the Building Official as set forth below. The notice shall include a copy of this subsection 811(g) and be substantially as follows:

Notice of Continuing Violation of the Orange County Grading and Excavation Code.

Notice is hereby given that the County of Orange has determined that a violation of the above Cod exists on the following described property (description). The violation consists of (description).

While a violation of the above Code exists, the County of Orange may refuse to approve building or occupancy permits, subdivision maps, use permits, and other discretionary permits and development approvals.

2. Correction of Violation

If, within 20 days of receipt of a notice of intent, the owner corrects the violation, no notice of violation shall be recorded. The Building Official may grant extensions of time for good cause.

3. Meeting

If the owner requests a meeting, the Building Official shall schedule a meeting. Notice of the meeting shall be served on the owner not less than 15 days prior thereto. The Building Official may reschedule the meeting from time to time for a good cause with adequate notice to the landowner. At the meeting, the owner may be represented by counsel and may present any relevant evidence that violations do not exist.

4. Decision, Notice

Within 30 days following completion of the meeting, the Building Official shall issue and serve on the owner his determination as to whether or not a notice of violation will be recorded. This determination shall be supported by appropriate findings on all material issues raised at the meeting. The decision of the Building Official shall be final with respect to recordation of a notice of violation, but shall not affect other proceedings under Section 7-1-811.

5. Recordation

If the Building Official determines that a notice will be recorded, such notice shall be recorded 15 or more days after service of notice of the decision.

6. Release of Notice

When a violation is corrected or mitigated to the satisfaction of the Building Official, if a notice of violation had been recorded, the Building Official shall cause a release to be recorded. Said release shall refer to the notice of violation and shall state that the violation described therein has been corrected.

Sec. 7-1-812. Hazardous Conditions.

- (a) Hazardous conditions exist when the state of any natural ground, natural slopes, excavation, fill or drainage device, all of which exist on private property, is a menace to life or limb, or a danger to public safety, endangers or adversely affects the safety, usability or stability of adjacent property, structures, or public facilities.
- (b) The Building Official may examine or cause to be examined every condition reported as hazardous as set forth in subsection (a) of this section.
- (c) **Notice of hazardous condition.** In any case where a hazardous condition is found by the Building Official, he shall give notice, setting forth the finding to all owners of the property affected by the hazardous condition, authorized representative of the owners or a permittee under any active permit which gives permittee control of the property issued pursuant to this Code hereinafter referred to as "owner", of such required corrective work. The notice may state the time and place of a hearing to be held if the owner fails to comply with any demand for corrective work or reports. The purpose of the hearing would be for the presentation of evidence concerning the hazardous conditions and demand for corrective work or submission of reports. The notice shall set forth the right of the owner to be present at the hearing, at his option, and introduce such relevant

evidence on the issues, as he desires. If the time and place of any hearing scheduled for the presentation of evidence is not included in the initial notice(s), it shall be included in a subsequent notice.

- (d) **Evidence.** At the time and place so specified for the hearing, evidence shall be submitted as to the facts of any condition as to reasonably establish its existence, and the Building Official or his designee, as Hearing Officer, shall determine whether the facts presented reasonably establish the existence of a hazardous condition to the satisfaction of the Hearing Officer. Evidence may further be submitted as to the work or reports considered necessary to correct or determine work to correct said hazard.

Exception: Where County property or facilities are endangered by the hazardous condition found by the Building Official, at the request of the owner, the hearing may be held before a member of the Grading Board of Appeals selected by the Chairman of the Board. The Building Official may appeal such Hearing Officer's order as set forth in this section. Such Hearing Officer may not consider an appeal of the case as a member of the Grading Board of Appeals.

- (e) **Order, finality and appeal.** If the Hearing Officer determines the existence of a hazardous condition, he shall determine whether such hazards are subject to corrective work and/or the need for more analysis through the preparation of reports and shall order such work or reports and specify a completion time.

1. **Finality of order.** The determination and order may be made orally at the hearing and shall be written and transmitted to the owner within a reasonable time. The determination and order shall become final within five (5) days, excluding Saturdays, Sundays and holidays, from the time it is first rendered in the event that the owner was not present at the hearing, within five (5) days of the mailing of the order to the last known address of said owner.

2. **Appeal.** The owner may, at any time prior to the determination and order becoming final, appeal in writing to the decision of the hearing Officer to the Grading Board of Appeals of the County of Orange. The Board shall fix a time and place and hold a hearing, consider the evidence and make a determination as set forth in Section 7-1-813, Grading Board of Appeals, of this Code.

The order of the Grading Board of Appeals shall be immediately final.

- (f) **Completion of work.** The owner shall, following the finality of the determination and order of the Hearing Officer, or if appealed, the determination and order of the Grading Board of Appeals, commence the corrective action ordered or preparation of reports and such work or submissions shall be completed within the specified time.
- (g) **Failure to complete work.** If the owner neglects or fails to complete the corrective work or submit the reports ordered by the Hearing Officer or Grading Board of Appeals within the specified time, the Building Official may: (1) cause the work to be performed or reports to be prepared, or (2) advise the owner of the need for corrective work and warn him/her that in the absence of such corrective work, subsequent future hazards may occur which could result in an order to vacate the premises. Nothing in this subsection shall be construed to limit the type of remedy or relief, which the Building Official may have under any other provision of law.
- (h) **Costs.** Costs incurred by the County to perform any corrective work or prepare reports under subsection (g) above shall be charged to the owner. The Building Official may apply to the Board of Supervisors to cause the costs to be paid and levied as a special assessment against the property and collected in a manner provided for special assessments.
- (i) **Vacation of property.** If necessary, the notice and order in subsection (c) or (e) of this section shall include the requirement that the property, a portion thereof or adjacent sites be vacated within a specified time, in the interest of public safety, pending the finality of any determination and order or completion of corrective work.

The Building Official shall cause the property to be posted at conspicuous locations with a notice containing at least the following:

UNSAFE TO OCCUPY

DO NOT ENTER

Building Official, County of Orange

Date Posted _____

Said posted notice may also contain the date, time and place of the hearing and the name, address and telephone number of the office or Building Official where additional information may be obtained.

Such posted notices shall remain posted until any necessary corrective work is completed. Such posted notices shall not be removed without written permission of the Building Official, and no person shall enter the property except for the purpose of making the required corrections or preparing reports.

(j) **Services of notices.** The notices and order required by subsections (c) and (e) of this section may be served either:

1. By mailing a copy by certified mail, return receipt requested, to the owner's address as designated on papers, applications, or permits on file with the Building Official; or
2. By personally delivering a copy to the owner's address as designated on papers, applications or permits on file with the Building Official; or
3. If the owner is absent from his place of residence and from his usual or designated place of business, by leaving a copy with some person of suitable age and discretion at either place, and sending a copy by certified mail, return receipt requested, addressed to the owner or authorized representative at his place of residence; or
4. If such place of residence and business cannot be ascertained, or a person of suitable age or discretion there cannot be found, then by affixing a copy in a conspicuous place on the property, building, or structure and also delivering a copy to a person there residing, if any, or to the person in charge if any; and also sending a copy by certified mail, return receipt requested addressed to the owner at the place where the property, building or structure is situated, or to the owner at his last known or designated address, or both.

Sec. 7-1-813. Grading Board of Appeals.

- (a) A Board of Appeals is hereby created. The Board shall consist of five (5) regular and five (5) alternate members appointed by the Board of Supervisors and shall function in accordance with Subarticle 4 of the Grading Manual.
- (b) The Board shall have the power, upon an appeal by the owner, agent in control or permittee under permit issued pursuant to this Code, to reverse, modify, or otherwise alter the determinations and orders of the Building Official made pursuant to the procedures authorized in Section 7-1-812, hazardous conditions, of this Code, under such rules and regulations as the Board may, from time to time, adopt. The Building Official shall not participate in the decision of the Board in such cases.
- (c) The Board's decision on an appeal shall be furnished in writing to the appellant and to the Building Official, and all such decisions shall be final immediately.

Sec. 7-1-814. Technical Advisory Board.

- (a) A Technical Advisory Board is hereby created. The Board shall consist of five (5) regular and five (5) alternate members and one (1) ex-officio member in accordance with Subarticle 4 of the Grading Manual.
- (b) The Building Official may refer to the Technical Advisory Board for an advisory technical opinion on any matter to which this Code is applicable. The advisory technical opinion of the Board shall not deprive the grading Board of Appeals of its jurisdiction to consider any appeal from a subsequent determination of the Building Official in regard to the same matter. The Technical Advisory Board may also serve as a board of review to provide for interpretation of data, opinions, conclusions, or adequacy of technical or geological reports.

SUBARTICLE 5. GRADING PERMIT REQUIREMENTS

Sec. 7-1-815. Permits Required.

Except as exempted in Section 7-1-805, Grading Permits, of this Code, no person shall conduct any grading or clearing, brushing, or grubbing on natural grade or existing grade that is preparatory to grading, without first obtaining a grading permit from the Building Official. A separate permit shall be required for each site and may cover both excavations and fills.

Sec. 7-1-816. Application.

- (a) To obtain a grading permit, the applicant must first file an application in writing on a form furnished by the Building Official.

The permit application shall be accompanied by information required by the Building Official and as specified in Subarticle 5 of the Grading Manual.

- (b) Applications for which no permit is issued within one hundred eighty (180) days following the date of application shall expire by limitation and plans submitted for checking may thereafter be returned to the applicant or destroyed by the Building Official. The Building Official may extend the time for action by the applicant for a period not exceeding one hundred eighty (180) days upon written request by the applicant showing that circumstances beyond the control of the applicant have prevented action from being taken. In order to renew action for an application after expiration, the applicant shall resubmit plans and pay a new plan check fee.

Sec. 7-1-817. Plans and Specifications.

- (a) Each application for a grading permit shall be accompanied by plans and specifications, and supporting data consisting of soil engineering and engineering geology reports when required by the Building Official, as specified in Section 7-1-819, soil engineering and engineering geology reports, of this Code.
- (b) Plans and specifications for earthwork projects of five thousand (5,000) cubic yards or more, and/or subdivisions and hillside commercial, industrial and multi-residential projects shall be prepared and signed by a civil engineer, unless otherwise approved by the Building Official. This requirement may be extended to any project when, in the opinion of the Building Official, critical drainage or geologic factors may be involved and there is need for civil engineering design and control.

Sec. 7-1-818. Information on Plans and Specifications.

Grading plans and specifications shall be prepared in accordance with the grading requirements of Section 7-1-839(a), Grading Requirements, of this Code and Subarticle 5 of the Grading Manual.

Sec. 7-1-819. Soil Engineering and Engineering Geology Reports.

A soil engineering and engineering geology report shall be required for grading projects, unless otherwise waived by the Building Official. The reports shall include information appropriate for the site including any information required by the Building Official. Recommendations included in the reports and approved by the Building Official shall be incorporated in the grading plans or specifications.

Sec. 7-1-820. Issuance, Expiration and Renewal.

- (a) Every permit issued shall be valid for a period of two (2) years from the date of issuance.
- (b) Every permit issued shall expire by limitation and become null and void if the work authorized by such permit is not commenced within one-hundred eighty (180) days from the date of such permit or if the work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of one-hundred eighty (180) days.
- (c) The time limitations and provisions of Section 106.4, Permits Issuance, of the Uniform Building Code as amended are applicable to grading permits, except as stated in (1) and (2) below:
 - 1. A permit issued hereunder shall expire upon a change of ownership of the grading work thereon, for which said permit was issued, has not been completed, and a new permit shall be required for the completion of the work. If the time limitations of (a) and (b) of this section are not applicable and if no changes have been made to the plans and specifications last submitted to the Building Official, no charge shall be made for the issuance of the new permit under such circumstances. If, however, changes have been made to the plans and specifications last submitted to Building Official, fees based on the valuation of the additional work, additional volume and necessary plan checking as provided for in Subarticle 6 of the Grading Manual shall be charged to the permit applicant.
 - 2. The Building Official may extend the one-hundred eighty (180) day expiration time limit on permits not to exceed two (2) successive periods of one-hundred eighty (180) days each upon written request by the applicant showing that circumstances beyond the control of the applicant have prevented action from being taken.
- (d) The Building Official may require that grading operations and project designs be modified if delays occur which incur weather-related problems not considered at the time the permit was issued, and further subject to the provisions of Section 7-1-821, Denial of Permit, of this Code.
- (e) If the permittee presents satisfactory reasons for failure to continue or begin the work within the period specified in (b) of this section, the Building Official, upon receiving a written request, may grant an extension of that time as specified in (c)(2) of this section provided that:
 - 1. No changes have been made in the original plans and specifications for such work.
 - 2. Suspension or abandonment has not exceeded one year.
 - 3. A re-endorsement of the compliance of the plans with the applicable regulations by the Planning and Development Services Department shall be obtained.

Such request for extensions must be submitted no later than the sixtieth (60th) day following the date on which said permit would otherwise expire. If the permittee fails to request an extension within the time provided, the Building Official may renew the grading permit provided no changes have been made in the original plans and specifications for such work.

- (f) If the permittee is unable to complete the work by the end of a two (2) year period, the Building Official may renew the grading permit on an annual basis for such work, provided no changes have been made in the original plans and specifications for such work.

Sec. 7-1-821. Denial of Permit.

- (a) The Building Official shall not issue a permit in any case where he finds that the work as proposed by the applicant is liable to constitute a hazard to property or result in the deposition of debris on any public way or interfere with any existing drainage course. If it can be shown to the satisfaction of the Building Official that the hazard can be essentially eliminated by the construction of retaining structures, buttress fills, drainage devices or by other means, the Building Official may issue the permit with the condition that such work be performed.
- (b) If, in the opinion of the Building official, the land area for which grading is proposed is subject to geological or flood hazard to the extent that no reasonable amount of corrective work can eliminate or sufficiently reduce the hazard to human life or property, the Grading Permit and the Building Permit for habitable structures shall be denied.
- (c) The Building Official may require plans and specifications to be modified in order to mitigate anticipated adverse environmental affects of proposed grading projects. He may, under circumstances where the significant adverse environmental effects of a proposed grading project cannot be mitigated, deny the issuance of a grading permit.
- (d) The Building Official may require plans and specifications to be modified in order to make them consistent with the Orange County General Plan, Specific Plans, Zoning Code or other rules, regulations, or conditions applicable to the project. He may deny the grading permit if the proposed project cannot be designed in accordance with these rules, regulations or conditions.

Sec. 7-1-822. Time of Grading Operations.

Grading and equipment operations within 1/2 mile of a structure for human occupancy shall not be conducted between the hours of 8:00 p.m. and 7:00 a.m. nor on Sundays and federal holidays. The Building Official may, however, permit grading or equipment operations during specific hours after 8 p.m. or before 7 a.m. nor on Sundays and federal holidays if he determines that such operations are not detrimental to the health, safety, or welfare of the inhabitants of such a structure. Permitted hours of operation may be shortened by the Building Official's finding of a previously unforeseen effect on the health safety, or welfare of the surrounding community. However, no permit that has been issued, nor any provision of this section shall be construed to be a waiver of the applicability of the provisions set forth in Article 1, Division 6, Title 4 of the Codified Ordinances of the County of Orange relating to noise control.

Sec. 7-1-823. Responsibility of Permittee.

It shall be the responsibility of the permittee to be knowledgeable of the conditions and/or restrictions of the grading permit as outlined in applicable sections of this Code, the Grading Manual, and as contained on the approved grading plans and in the approved soil and geology reports. The permittee shall also be responsible to maintain in an obvious and accessible location on the site, a copy of the grading plans bearing the stamp of approval by the Building Official.

Section 7-1-824. Protection of Adjoining Property.

Each adjacent owner is entitled to the lateral and subjacent support which his land receives from the adjoining land, subject to the right of the owner of the adjoining land to make proper and usual excavations on the same for purposes of construction or improvement as provided by law. Section 832 of the California Civil Code is contained in appendix G of the Grading Manual.

Section 7-1-825. Import and Export of Earth Material.

Where an excess of five thousand (5,000) cubic yards of earth per project site is moved on public roadways from or to the site of an earth grading operation, all the following requirements shall apply:

- (a) Either water or dust palliative or both must be applied for the alleviation or prevention of excessive dust resulting from the loading or transportation of earth from or to the project site on public roadways. The permittee shall be responsible for maintaining public rights-of-way used for handling purposes in a condition free of dust, earth, or debris attributed to the grading operation.
- (b) Loading and transportation of earth from or to the site must be accomplished within the limitations established in Section 7-1-822, Time of Grading Operations, of this Grading Code.
- (c) Access roads to the premises shall be only at points designated on the approved grading plan.
- (d) The last fifty (50) feet of the access road, as it approaches the intersection with the public roadway, shall have a grade not to exceed three (3) percent. There must be three hundred (300) feet clear, unobstructed sight distance to the intersection from both the public roadway and the access road. If the three hundred (300) feet sight distance cannot be obtained, flagmen shall be posted.
- (e) A stop sign conforming to the requirement of the California Vehicle Code shall be posted at the entrance of the access road to the public roadway.
- (f) An advance warning sign must be posted on the public roadway four hundred (400) feet on either side of the access intersection, carrying the words 'Truck Crossing'. The sign shall be diamond shape, each side being thirty (30) inches in length, shall have an orange background, and the letters thereon shall be five (5) inches in the height. The sign shall be placed eight (8) feet from the edge of the pavement and the base of the sign shall be five (5) feet above the pavement level. The advance warning sign shall be covered or removed when the access intersection is not in use.

SUBARTICLE 6. FEES

Sec. 7-1-826. Grading Plan Check Fees.

Before accepting a grading permit application and plans and specifications for checking, the Building Official shall collect a plan-checking deposit as approved by resolution of the Board of Supervisors and as provided in Subarticle 6 of the Grading Manual.

Sec. 7-1-827. Grading Permit Fees.

- (a) A deposit for each grading permit shall be paid to the Building Official prior to issuance of a grading permit as approved by resolution of the Board of Supervisors and as provided in Subarticle 6 of the Grading Manual.
- (b) Failure to pay a deposit and obtain a permit before commencing work shall be deemed a violation of this Code, except when it can be proven to the satisfaction of the Building Official that an emergency existed which made it impractical to first obtain the permit. A violation shall result in an assessment of double hourly rate charges for work done prior to plan approval and permit issuance. Payment of a double hourly rate charge shall not relieve any person from fully complying with the requirements of this Code nor from any other penalties prescribed herein.
- (c) Additional fees approved by resolution of the Board of Supervisors and contained in Subarticle 6 of the Grading Manual shall be paid as required to the Building Official.

Sec. 7-1-828. Cost Recovery Fees.

If the Building Official performs emergency work on private property, he shall charge the property owner all direct and indirect costs which are necessary to complete the work to his satisfaction. In addition, the Building Official may charge a mobilization cost equal to ten (10) percent of the cost for performing the work.

SUBARTICLE 7. SECURITY

Sec. 7-1-829. Security.

- (a) A grading permit shall not be issued unless the permittee shall first post with the Building Official security in a form and amount set forth in the Grading Manual. The security is required to assure that the work, if not completed in accordance with approved plans and specifications will be corrected to eliminate hazardous conditions. This requirement may be waived at the discretion of the Building Official if he determines that:
 - 1. No hazardous situation is likely to occur as a result of incomplete or improper grading, or
 - 2. No adverse effect is likely to occur to subject property, adjacent property or an existing or proposed structure thereon as a result of incomplete or improper grading, or
 - 3. No significant drainage, erosion, flooding or siltation problems will exist as a result of incomplete or improper grading, or
 - 4. No adverse geological or environmental impacts will occur as a result of incomplete or improper grading, or
 - 5. No conditions of the permit warrant a financial guarantee to assure their satisfactory completion.
- (b) Multiple projects. On developments where progressive individual grading projects or several concurrent projects are being constructed by one owner, a continuing (blanket) form of security which will cover all such projects may be accepted and the amount determined by the Building Official.
- (c) Additional security. Additional security in an amount determined by the Building Official may be required to ensure the completion of finish grading under the permit as a condition of occupancy and energizing utilities. Security in an amount determined by the Building Official may be required for permits involving temporary earthen stockpiles to ensure their timely removal.
- (d) Failure to complete work. In the event of failure to comply with all of the conditions and terms of the permit, the Building Official may order the work authorized by the permit to be completed or put in a safe condition to his satisfaction.
- (e) Default in performance of conditions. Whenever the Building Official finds or determines that a default has occurred in the performance of any requirement of a condition of a permit, or there is a failure to comply with an order issued pursuant to subdivision (d), written notice thereof shall be given to the permittee and, when applicable, to the surety on the bond or other security. Such notice shall specify the work to be done, the estimated cost thereof and the period of time deemed by the Building Official to be reasonably necessary for the completion. After receipt of such notice, the permittee and, if applicable, surety, shall within the time specified, cause or require the work to be performed. If the work is not performed, the estimated cost of performing the work shall be demanded from the surety, or, if there is no surety, obtained from the security, and the Building Official shall cause such work to be performed and completed. The cost of the work shall include a mobilization charge as specified in Section 7-1-828.

SUBARTICLE 8. CUTS

Sec. 7-1-830. Cuts.

- (a) Cut slopes shall be no steeper than one (1) vertical to two (2) horizontal (1V:2H) unless otherwise recommended in the soil engineering or engineering geology report and approved by the Building Official. The slope of cut surfaces shall be no steeper than is safe for the intended use.

SUBARTICLE 9. FILLS

Sec. 7-1-831. Fills.

- (a) Unless otherwise approved by the Building Official and recommended in the approved soil engineering report, fills shall conform to Subarticle 9 of the Grading Manual. The provisions therein may be waived for minor fills not intended to support structures upon written request by the applicant on a form prescribed by the Building Official.
- (b) The Building Official may require that the soil tests or testing be performed by an approved testing laboratory.
- (c) Fill slopes shall be no steeper than one (1) vertical to two (2) horizontal (1V:2H) unless otherwise recommended in the soil engineering report and approved by the Building Official. The slope of fill surfaces shall be no steeper than is safe for the intended use.

SUBARTICLE 10. SETBACKS

Sec. 7-1-832. Setbacks.

The setbacks and other restrictions specified by Subarticle 10 of the Grading Manual are minimum and may be increased by the Building Official or by the recommendation of a civil engineer, soil engineer or engineering geologist, if necessary for safety and stability or to prevent damage to structures or adjacent properties from sediment deposition, erosion, water runoff of the slopes or to provide access for slope and drainage structure maintenance. The minimum setback may be reduced only in special circumstances where stability is proven to the satisfaction of the Building Official by the soil engineer or engineering geologist and other factors are of primary importance.

SUBARTICLE 11. DRAINAGE AND TERRACING

Sec. 7-1-833. Drainage and Terracing.

Drainage facilities and terracing shall conform to the provisions of Subarticle 11 of the Grading Manual unless otherwise approved by the Building Official and delineated on the approved grading plan.

SUBARTICLE 12. ASPHALT CONCRETE PAVEMENT

Sec. 7-1-834. Asphalt Concrete Pavement.

- (a) Asphalt concrete pavement for surfacing of parking lots, private streets or other similar use shall conform to the provisions of Subarticle 12 of the Grading Manual unless otherwise approved by the Building Official.
- (b) The site soil engineer or special inspector shall inspect the construction of asphalt paved areas and verify to the Building Official that the work has been performed in compliance with the provisions of this section.

SUBARTICLE 13. EROSION CONTROL

Sec. 7-1-835. Erosion Control System.

- (a) The faces of cut and fill slopes and project site shall be prepared and maintained to control against erosion in accordance with this Subarticle. Where cut slopes are not subject to erosion due to the erosion-resistant character of the materials, such protection may be omitted upon approval by the Building Official.
- (b) Where necessary, temporary and/or permanent erosion control devices such as desilting basins, check dams, riprap or other devices or methods, as approved by the Building Official, shall be employed to control erosion and provide safety during the rainy season from October 15th to April 15th.
- (c) No grading work in excess of two hundred (200) cubic yards will be allowed between October 15 and April 15 on any single grading site under permit unless an erosion control system has been approved or waived by the Building Official.
- (d) Paved streets, sidewalks, and other improvements shall be maintained in a neat and clean condition free of loose soil, construction debris and trash. Street sweeping or other equally effective means shall be used on a regular basis to prevent storm flows from carrying sediment and debris outside the project boundaries. Watering shall not be used to clean streets except for fine material not otherwise removed by sweeping or other mechanical means.
- (e) Unless otherwise approved by the Building Official, the owner shall be required to retain a Civil Engineer who will be responsible for the design of all erosion control improvements and initial approval of the installation of permanent and semi-permanent erosion control devices during each rainy season until the work authorized by the permit is given final approval. The owner shall retain the Civil Engineer to periodically review the field condition and modify, as needed, the design of the permanent and semi-permanent erosion control devices during the rainy season. Installation and maintenance of all erosion control devices shall be responsibility of the owner.
- (f) Desilting facilities shall be provided at drainage outlets from the graded site.
- (g) Desilting facilities shall be designed to provide a minimum desilting capacity equal to the current Public Facilities and Resources Department standards.
- (h) Desilting basins shall be constructed around the perimeter of projects whenever feasible when it provides improved maintenance access from paved roads during wet weather.
- (i) Desilting basins constructed of compacted earth shall be compacted to a relative compaction of ninety (90) percent of maximum density. A soil engineering report, prepared by the soil engineer, which includes the type of field testing performed, location and results of testing shall be submitted to the Building Official for approval upon completion of the desilting basins.
- (j) Equipment and workers for emergency work shall be made available at all times during the rainy season. Necessary materials shall be available on-site and stockpiled at convenient locations to facilitate rapid construction of temporary devices when rain is imminent.
- (k) Erosion protection shall consist of effective planting of all slopes in excess of five (5) feet high unless otherwise approved by the Building Official. Slopes exceeding fifteen (15) feet high may require an adequate sprinkler system, as determined by the Building Official.

Protection for the slopes shall be installed as soon as practicable which may be prior to rough grade approval. Effective planting shall be installed, fully germinated and effectively cover the required slopes prior to final approval unless otherwise approved by the Building Official.

- (l) The erosion control provisions shall take into account drainage patterns during the current and future phases of grading throughout the rainy season.
- (m) All removable protective devices shown shall be in place at the end of each working day when the five (5) day rain probability forecast exceeds forty (40) percent.
- (n) Graded areas around the project perimeter must drain away from the face of slopes at the conclusion of each working day.

Sec. 7-1-836. Erosion Control Plans.

Erosion control plans prepared in accordance with Subarticle 13 of the Grading Manual shall be submitted to the Building Official for approval by September 15 each year for projects under grading permit. The erosion control plan may be waived for grading projects on single residential lot projects providing that an erosion control system, meeting the approval of the Building Official, has been installed, placed, planted or constructed before October 15.

Sec. 7-1-837. Erosion Control Maintenance.

- (a) After each rainstorm, silt and debris shall be removed from check berms and desilting basins and the basins pumped dry.
- (b) After each rainstorm, the performance of the erosion control system shall be evaluated and revised and repaired as necessary.
- (c) Devices shall not be moved or modified without the approval of the Building Official.
- (d) The contractor shall be responsible and take necessary precautions to prevent public trespass onto areas where impounded water creates a hazardous condition.
- (e) The contractor and permittee or project owner shall be responsible for continual maintenance of the devices during the rainy season. In the event of failure or refusal by the contractor, permittee or project owner to properly maintain the devices, the Building Official may cause emergency maintenance work to be done to protect adjacent private and public property. The cost shall be charged to the owner and shall include an initial mobilization cost plus the cost of doing the work as contained in Subarticle 6 of this Code.
- (f) In the event the Building Official must cause emergency maintenance work to be done, he may revoke the grading permit in writing. The permit shall not be renewed until an erosion control system approved by the Building Official is installed. The Building Official may waive installation of an erosion control system after April 15.
- (g) If any grading subject to Section 7-1-805, Grading Permits, of this Code has commenced on private property without a valid grading permit, the property owner may be required to prepare and implement an erosion control plan which has been approved by the Building Official. In the event of failure by the property owner to install an approved erosion control system, the Building Official may cause emergency work to be done to protect adjacent private and public property. The procedures of Section 7-1-812, Hazardous Conditions, of this Code need not apply for emergency erosion control work between October 15 and April 15. The cost shall be charged to the owner in accordance with item (e) of this section.

SUBARTICLE 14. GRADING INSPECTION

Sec. 7-1-838. General.

All grading operations for which a permit is required shall be subject to inspection by the Building Official.

Sec. 7-1-839. Grading Requirements.

- (a) It shall be the responsibility of the civil engineer, architect or other qualified individual who prepares the grading plan approved by the Building Official to incorporate all recommendations from the soil engineering and engineering geology reports into the grading plan. He shall also be responsible for the professional inspection and approval of the grading within his area of technical specialty. This responsibility shall include, but need not be limited to, inspection and approval as to the establishment of line, grade and drainage of the development area. The project civil engineer and/or general contractor shall act as the coordinating agent in the event the need arises for liaison between the project professional grading contractor, and the Building Official, the civil engineer or other qualified person who prepares and signs the grading plan shall also be responsible for the preparation of revised plans, erosion control plans, and the submission of as-graded grading plans when required by the Building Official upon completion of the work.
- (b) Soil engineering and engineering geology reports shall be required as specified in Section 7-1-819, Soil Engineering and Engineering Geology Reports, of this Code. During grading, all necessary reports, compaction data, soil engineering and engineering geology recommendations shall be submitted to the owner by the soil engineer and engineering geologist. The owner shall submit copies of the report to the civil engineer and two copies of all reports to the Building Official.
- (c) The soil engineer's area of responsibility shall include, but need not be limited to, the professional inspection and approval concerning the preparation of ground to receive fills, testing for required compaction, stability of all finish slopes, design of buttress fills, subdrain installation and incorporation of data supplied by the engineering geologist.
- (d) The engineering geologist's area of responsibility shall include, but need not be limited to, professional inspection and written approval of the adequacy of natural ground for receiving fills, the stability of cut slopes with respect to geological matters, and the need for subdrains or other ground water drainage devices. He shall report his finding to the soil engineer and the civil engineer for engineering analysis.
- (e) The Building Official may expeditiously inspect the project at the various stages of work requiring approval and at any more frequent intervals necessary to determine that adequate control is being exercised by the professional consultants.
- (f) When preliminary soil engineering reports are not required by the Building Official, he may require inspection and testing by an approved testing agency. The testing agency's responsibility shall include, but need not be limited to, approval of cleared areas and benches to receive fill, and the compaction of fills.

Sec. 7-1-840. Notification of Non-Compliance.

If, in the course of fulfilling their responsibility under this Code, the civil engineer, the soil engineer, the engineering geologist, or the testing agency finds that the work is not being done in conformance with the provisions of the approved specifications and grading plans, the discrepancies shall be reported immediate in writing top the person in charge of the grading work and to the Building Official. Recommendations for corrective measures, if necessary, shall be submitted to the owner. The owner shall submit two copies of all recommendations and reports to the Building Official.

Sec. 7-1-841. Transfer of Responsibility for Approval.

If the civil engineer, the soil engineer, the engineering geologist, the testing agency, or the grading contractor of record are changed during the course of the work, the work shall be stopped unless: 1) the owner submits a letter of notification verifying the change of the responsible professional; and 2) the new responsible professional submits in writing that he has reviewed all prior reports and/or plans (specified by date and title) and work performed by the prior responsible professional and that he concurs with the findings, conclusions, and recommendations, and is satisfied with the work performed. He may modify or revise recommendations, and is satisfied with the work performed if accompanied by supporting data and approved by the Building Official. He must state that he assumes all responsibility within his purview as of a specified date. All exceptions must be justified to the satisfaction of the Building Official.

Exception: Where clearly indicated that the firm, not the individual engineer and/or geologist, is the contacting party, the designated engineer or geologist may be reassigned and another engineer and/or geologist within the firm may assume responsibility.

Sec. 7-1-842. Site Inspection by the Building Official.

- a) Prior to the approval of any building or grading plans and specifications, the Building Official may inspect the site to determine that the plans and specifications are current and reflect existing conditions.
- b) The permittee or his agent shall notify the Building Official when the grading operations for which inspection is required are ready for inspection.
- c) If the inspector finds the soil or other conditions not as stated in the approved plans and soil or geology reports or as in additional information which was required for issuance of the grading permit, he may, using reasonable judgment, refuse to allow further work until approval is obtained for a revised grading plan which will conform to the conditions
- d) The provisions of Section 104.2.4, Stop Orders, of the Uniform Building Code shall apply to all grading work and whenever the Building Official determines that any work does not comply with the terms of a permit, or this Code, or that the soil or other conditions are not as stated on the permit, he may order the work stopped by notice in writing served on any persons engaged in doing or causing of such work to be done and any such persons shall forthwith stop such work until authorized by the Building Official to proceed with the work.
- e) Prior to the issuance of building permits for a graded site, the rough grading shall be completed in accordance with applicable requirements and to the satisfaction of the responsible civil engineer or architect, engineering geologist, soil engineer, and the Building Official.
- f) Whenever any work on which inspections are required is covered or concealed by additional work without first having been inspected, the Building Official may require by written notice, that such work be exposed for examination. The work of exposing and recovering shall not entail or be subject to expense by the County.

Sec. 7-1-843. Special Inspections.

The Building Official may establish special inspection requirements in accordance with Section 1701, Special Inspections, of the Uniform Building Code, as amended for special cases involving grading or paving related operations. Special cases may apply to work where in the opinion of the Building Official it is necessary to supplement the resources or expertise available for inspection.

SUBARTICLE 15. COMPLETION OF WORK

Sec. 7-1-844. Final Reports.

Upon completion of the rough grading work and at the final completion of the work, the Building Official may require the written approvals, reports, drawings and supplements thereto specified in Subarticle 15 of the Grading Manual.

Sec. 7-1-845. Notification of Completion.

The permittee or his agent shall notify the Building Official when the grading operation is ready for final inspection. All work including installation of all drainage facilities and their protective devices and all erosion control measures must be completed in accordance with the final approved grading plan and the required reports approved by the Building Official before final approval of the grading permit is given by the Building Official. He may approve the grading work prior to completion of all work in special cases of extreme hardship and if no hazard exists and adequate security is posed to assure completion of all remaining work.